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**Congreso De Uniones Industriales De Puerto Rico
and Pan American Grain Manufacturing Co.,
Inc. Case 24-CB-2074**

October 1, 2001

DECISION AND ORDER

BY MEMBERS LIEBMAN, TRUESDALE AND WALSH

Upon a charge and amended charges filed by Pan American Grain Manufacturing Co., Inc. (the Employer), on May 11, 2000, February 12 and May 17, 2001, respectively, the General Counsel of the National Labor Relations Board issued a complaint on June 28, 2001, against Congreso De Uniones Industriales de Puerto Rico (the Respondent Union or Respondent) alleging that it has violated Section 8(b)(1)(A) and (B) of the National Labor Relations Act. Although properly served copies of the charge, amended charges and complaint, the Respondent failed to file a timely answer.

On August 6, 2001, the General Counsel filed a Motion for Summary Judgment with the Board. On August 9, 2001, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated July 13, 2001, notified the Respondent that unless an answer were received by July 20, 2001, a Motion for Summary Judgment would be filed.¹

¹ On August 27, 2001, the General Counsel filed a brief with the Board entitled "Argument in Support of Motion for Summary Judgment." In this brief, the General Counsel states that on August 6, 2001, the Respondent filed an answer to the complaint with the

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, Pan American Grain Manufacturing Co., Inc., the Employer, a Puerto Rico corporation with its central office located at Bo. Amelia, Guaynabo, Puerto Rico (the Arroz Rico plant), has been engaged in the importation, manufacture, and sale of grains, animal feed, and related products. During the 12-month period preceding the issuance of the complaint, the Employer, in conducting its business operations, purchased and received at the Arroz Rico plant goods valued in excess of \$50,000 directly from points outside the Commonwealth of Puerto Rico.

At all times Pan American Grain, Pan American Grain Co., Inc. and Pan American Grain Manufacturing have been affiliated business enterprises with common officers, ownership, directors, management, and supervision; have formulated and administered a common labor policy affecting employees of said operations; have shared common premises and facilities; have provided services for and made sales to each other; have interchanged personnel with each other; and have held themselves out to the public as single integrated business enterprises.

By virtue of the operations described above, Pan American Grain Co., Inc., and Pan American Grain Manufacturing Co., Inc., constitute a single integrated business enterprise and a single employer within the meaning of the Act.

We find that the Employer is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Respondent is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individual held the position set forth opposite his name and has been an agent of the Respondent Union within the meaning of Section 2(13) of the Act:

José Alberto Figueroa President

Regional Office. A copy of the answer is attached to the brief. Inasmuch as the answer was filed more than 2 weeks after the extended due date of July 20, 2001, we find that the answer was untimely filed.

The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.²

INCLUDED: All production and maintenance employees of the Employer at the Amelia Industrial Park "Arroz Rico" plant and the Corujo plant, in Guaynabo and Bayamón, respectively, including, but not limited to, drivers, helpers, mechanics and electricians.

EXCLUDED: All office clerical employees, professional employees, managers and supervisors as defined in the Act.

Since about June 11, 1987, and at all material times, the Respondent Union has been the designated exclusive collective-bargaining representative of the unit and since that time the Respondent Union has been recognized as the representative by the Employer. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from November 1997 to November 2001.

At all times since June 11, 1987, based on Section 9(a) of the Act, the Respondent Union has been the exclusive collective-bargaining representative of the unit.

At all material times, Luis A. Juarbe has held the position of Human Resources Director for the Employer, and has been a supervisor within the meaning of Section 2(11) of the Act and has been a representative and/or grievance representative of the Employer for the purposes of collective bargaining or the adjustment of grievances within the meaning of Section 8(b)(1)(B) of the Act.

About May 9, 2000, the Respondent Union, by José A. Figueroa, during a telephonic conversation, implicitly threatened Luis A. Juarbe with solving its bargaining differences by means of fist fighting.

About May 12, 2000, the Respondent Union, by José A. Figueroa, at the Respondent Union's office and in the presence of employees, restrained and coerced employees by failing to disavow and thereby supporting an employee statement about physically assaulting and/or killing José González, a representative of the Employer.

CONCLUSIONS OF LAW

By the acts and conduct described above, the Respondent Union has been restraining and coercing an employer in the selection of its representative for the

purposes of collective bargaining or adjustment of grievances in violation of Section 8(b)(1)(B) of the Act, and has been restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act, thereby affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

ORDER

The National Labor Relations Board orders that the Respondent, Congreso de Uniones Industriales de Puerto Rico, Cantaño, Puerto Rico, its officers, agents, successors, and representatives, shall

1. Cease and desist from

(a) Restraining or coercing the Employer in the selection of its representatives for collective bargaining or grievance adjustment by implicitly threatening human relations director Luis A. Juarbe with solving its bargaining differences by means of fist fighting.

(b) Restraining or coercing employees by failing to disavow and thereby supporting an employee statement about physically assaulting and/or killing José González, a representative of the Employer.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its business offices and meeting places, in both the English and Spanish language, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 24, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material.

² The complaint inadvertently refers in the unit description to the employees of "the Respondent" rather than of "the Employer."

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(b) Within 14 days after service by the Region, furnish the Regional Director for Region 24 signed copies of the notice for posting by Pan American Grain Manufacturing Co., Inc., if willing, at its facility in Bo. Amelia, Guaynabo, Puerto Rico, where notices to its employees are customarily posted.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., October 1, 2001

_____ Wilma B. Liebman,	Member
_____ John C. Truesdale,	Member
_____ Dennis P. Walsh,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO MEMBERS AND EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT restrain or coerce Pan American Grain Manufacturing Co., Inc., in the selection of its representatives for collective bargaining or grievance adjustment by implicitly threatening human relations director Luis A. Juarbe with solving our bargaining differences by means of fist fighting.

WE WILL NOT restrain or coerce employees by failing to disavow and thereby supporting an employee statement about physically assaulting and/or killing José González, a representative of the Employer.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

CONGRESO DE UNIONES INDUSTRIALES
DE PUERTO RICO